



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2016–0077; 4500030113]

RIN 1018–BB34

Endangered and Threatened Wildlife and Plants; 6-Month Extension of Final Determination on the Proposed Endangered Status for Texas Hornshell (*Popenaias popeii*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the final determination of whether to add the Texas hornshell (*Popenaias popeii*), a freshwater mussel species from New Mexico, Texas, and Mexico, to the List of Endangered and Threatened Wildlife. We are also reopening the comment period on the proposed rule to list the species, for an additional 30 days. We are taking this action to extend the final determination based on substantial disagreement regarding the status of Texas hornshell in Mexico. We will submit a final listing determination to the *Federal Register* on or before February 10, 2018.

DATES: The comment period on the proposed rule that published August 10, 2016 (81 FR 52796), is reopened. We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If you comment using the Federal eRulemaking Portal (see

ADDRESSES), you must submit your comments by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter FWS–R2–ES–2016–0077. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2016–0077; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Chuck Ardizzone, U.S. Fish and Wildlife Service, Texas Coastal Ecological Services Field Office, 17629 El Camino Real #211, Houston, TX 77058; on the internet at <https://www.fws.gov/southwest/es/TexasCoastal/>; by telephone 281–286–8282; or by facsimile 281–488–5882. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2016, we published a proposed rule (81 FR 52796) to list the Texas hornshell as an endangered species under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 et seq.). The List of Endangered and Threatened Wildlife under the Act is located in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h). The publication of this proposed rule complied with a deadline established in a court-approved settlement agreement (Endangered Species Act Section 4 Deadline

Litigation, No. 10–377 (EGS), MDL Docket No. 2165 (D.D.C. May 10, 2011)). That proposal had a 60-day comment period, ending October 11, 2016. We reopened the comment period for 30 days on May 30, 2017 (82 FR 24654), in order to hold two public hearings on the proposed rule. For a description of previous Federal actions concerning the Texas hornshell, please refer to the August 10, 2016, proposed listing rule (81 FR 52796).

We also solicited and received independent scientific review of the information contained in the proposed rule from peer reviewers with expertise in Texas hornshell or similar species ecology and identified threats to the species, in accordance with our July 1, 1994, peer review policy (59 FR 34270).

Section 4(b)(6) of the Act and its implementing regulations at 50 CFR 424.17(a) require that we take one of three actions within 1 year of a proposed listing: (1) finalize the proposed rule; (2) withdraw the proposed rule; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination.

Since the publication of the proposed rule, there has been substantial disagreement regarding the interpretation of the limited surveys that exist for Texas hornshell in Mexico. This situation has led to a significant disagreement regarding the current conservation status of the species in Mexico. Therefore, in consideration of the disagreements surrounding the Texas hornshell's status, we are extending the final determination for 6 months in order to solicit information that will help to clarify these issues. With this 6-month extension, we will make a final determination on the proposed rule no later than February 10, 2018.

Information Requested

We will accept written comments and information during this reopened comment period on our proposed listing rule for Texas hornshell that was published in the *Federal Register* on August 10, 2016 (81 FR 52796). We will consider information and recommendations from all interested parties. We intend that any final action resulting from the proposal be as accurate as possible and based on the best available scientific and commercial data.

Due to the scientific disagreements described above, we are particularly interested in new information and comments regarding the status of and threats to any Texas hornshell population in Mexico.

If you previously submitted comments or information on the August 10, 2016, proposed rule (81 FR 52796), please do not resubmit them. We have incorporated previously submitted comments into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning the proposed listing will take into consideration all written comments and any additional information we receive.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this

information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Texas Coastal Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at <http://www.regulations.gov> at Docket No. FWS–R2–ES–2016–0077, or by mail from the U.S. Fish and Wildlife Service, Texas Coastal Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 4, 2017.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

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